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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION  
11

12 PRODUCE CENTER, INC.,

13 Petitioner,

14 vs.

15 SUNRIVER TRADING COMPANY  
16 LIMITED d/b/a SUNRIVER SALES,

17 Respondent.  
18  
19

Case No.: 5:08-mc-80116 JW

**OPPOSITION TO MOTION FOR  
RECONSIDERATION RE COURT'S  
JUNE 6, 2008 ORDER**

Date: July 7, 2008

Time: 9:00 a.m.

Place: Courtroom 8, 4<sup>th</sup> Floor

20 Petitioner Produce Center, Inc., hereby opposes Respondent Sunriver Trading  
21 Company Limited's Motion for Reconsideration.

22 I. No Citation to Authority On Point

23 Respondent does not cite to any Ninth Circuit Court of Appeals' precedent which is  
24 on point and would warrant reconsidering the Court's Order dated June 6, 2008.

25 Respondent cites to *Saharoff v. Stone*, 638 F.2d 90 (9<sup>th</sup> Cir. 1980), a case which concerns  
26 similar statutory bond language in a different statute. The issue there was "whether the  
27 bond requirement is consistent with the due process and equal protection components of  
28 the Fifth Amendment." *Id.* at. 92. So the case is not on point with the present issue of

whether the Court properly exercised its discretion to extend the time to file a bond. While not the holding, what occurred in that case supports this Court's authority to extend the time to file a bond. The Ninth Circuit said:

"The determination of the amount is a peculiarly judicial function, and the Act is by its terms to be upheld in any valid application. 536 F.2d at 861-62. See 7 U.S.C. § 17. Saharoff was required to file the bond as reduced by the motions panel. His proposed alternatives do not satisfy the statutory requirement." *Id.* at. 93.

So the Ninth Circuit reduced the amount of the bond from the statutory double bond amount, and then gave Saharoff time to file a bond in the reduced amount.<sup>1</sup> Here, the Court similarly provided Petitioner with time to file a bond.

## II. No Award of Attorney's Fees

If the Court reconsiders and rules that it lacks jurisdiction, then it is respectfully submitted that the same lack of jurisdiction would require that no attorney's fees be awarded pursuant to the subject cited statute.

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<sup>1</sup> Saharoff did not do so, and so the appeal was dismissed.